

ASSEMBLY BILL

No. 1646

Introduced by Assembly Member Frazier

February 11, 2014

An act to amend Sections 12804.9, 12810.3, 23123, 23123.5, and 23124 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1646, as introduced, Frazier. Vehicles: electronic wireless communication devices: prohibitions.

(1) Existing law requires the Department of Motor Vehicles to examine applicants for specific driver's licenses and requires that the examination include, among other things, a test of the applicants knowledge and understanding of the provision of the Vehicle Code governing the operation of vehicles upon the highways.

This bill would require the above-described examination to also include a test of the applicant's understanding of the distractions and dangers of handheld cellular phone use and text messaging while operating a motor vehicle.

(2) Existing law establishes that specified convictions and violations under the Vehicle Code and traffic-related incidents count as points against a driver's record for purposes of suspension or revocation of the privilege to drive.

Under existing law, it is an infraction for any person to drive a motor vehicle while using a wireless telephone, or an electronic wireless communications device to write send, or read a text-based communication, unless the telephone or electronic wireless communications device is designed and configured to allow voice-operated and hands-free operation, and is used in that manner

while driving, except as otherwise provided. A person under 18 years of age is prohibited from driving a motor vehicle while using a wireless telephone or an electronic wireless communications device, even if equipped with a hands-free device.

This bill would assess a violation point for a 2nd or subsequent conviction of a violation of these provisions. This bill would also increase the base fines for a violation of any of the above-described prohibitions involving driving a motor vehicle while using a wireless telephone or an electronic wireless communications device from \$20 to \$50, and the fine for a 2nd or subsequent offense from \$50 to \$100.

(3) Existing law prohibits a law enforcement officer from stopping a vehicle for the sole purpose of determining whether a driver, who is under 18 years of age, is violating the prohibition of driving a motor vehicle while using a telephone or an electronic wireless communications device.

This bill would delete the above prohibition.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12804.9 of the Vehicle Code is amended
2 to read:

3 12804.9. (a) (1) The examination shall include all of the
4 following:

5 (A) A test of the applicant's knowledge and understanding of
6 ~~the provisions of this code governing the operation of vehicles~~
7 upon the highways.

8 (B) A test of the applicant's ability to read and understand
9 simple English used in highway traffic and directional signs.

10 (C) A test of the applicant's understanding of traffic signs and
11 signals, including the bikeway signs, markers, and traffic control
12 devices established by the Department of Transportation.

13 (D) *A test of the applicant's understanding of the distractions*
14 *and dangers of handheld cellular phone use and text messaging*
15 *while operating a motor vehicle.*

16 ~~(D)~~

17 (E) An actual demonstration of the applicant's ability to exercise
18 ordinary and reasonable control in operating a motor vehicle by
19 driving it under the supervision of an examining officer. The

1 applicant shall submit to an examination appropriate to the type
2 of motor vehicle or combination of vehicles he or she desires a
3 license to drive, except that the department may waive the driving
4 test part of the examination for ~~any~~ *an* applicant who submits a
5 license issued by another state, territory, or possession of the United
6 States, the District of Columbia, or the Commonwealth of Puerto
7 Rico if the department verifies through any acknowledged national
8 driver record data source that there are no stops, holds, or other
9 impediments to its issuance. The examining officer may request
10 to see evidence of financial responsibility for the vehicle prior to
11 supervising the demonstration of the applicant's ability to operate
12 the vehicle. The examining officer may refuse to examine an
13 applicant who is unable to provide proof of financial responsibility
14 for the vehicle, unless proof of financial responsibility is not
15 required by this code.

16 ~~(E)~~

17 *(F)* A test of the hearing and eyesight of the applicant, and of
18 other matters that may be necessary to determine the applicant's
19 mental and physical fitness to operate a motor vehicle upon the
20 highways, and whether any grounds exist for refusal of a license
21 under this code.

22 (2) (A) Before a class A or class B driver's license, or class C
23 driver's license with a commercial endorsement, may be issued
24 or renewed, the applicant shall have in his or her driver record a
25 valid report of a medical examination of the applicant given not
26 more than two years prior to the date of the application by a health
27 care professional. As used in this paragraph, "health care
28 professional" means a person who is licensed, certified, or
29 registered in accordance with applicable state laws and regulations
30 to practice medicine and perform physical examinations in the
31 United States. Health care professionals are doctors of medicine,
32 doctors of osteopathy, physician assistants, and registered advanced
33 practice nurses, or doctors of chiropractic who are clinically
34 competent to perform the medical examination presently required
35 of motor carrier drivers by the United States Department of
36 Transportation. The report shall be on a form approved by the
37 department. In establishing the requirements, consideration may
38 be given to the standards presently required of motor carrier drivers
39 by the Federal Motor Carrier Safety Administration.

(B) The department may accept a federal waiver of one or more physical qualification standards if the waiver is accompanied by a report of a nonqualifying medical examination for a class A or class B driver's license, or class C driver's license with a commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of Subpart E of Part 391 of Title 49 of the Code of Federal Regulations.

(3) A physical defect of the applicant that, in the opinion of the department, is compensated for to ensure safe driving ~~ability~~, *ability* shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, an applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a combination of vehicles, if a vehicle being towed has a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds.

(B) A vehicle towing more than one vehicle.

(C) A trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a single vehicle with a gross vehicle weight rating or gross vehicle weight of more than 26,000 pounds.

(B) A single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) A bus with a gross vehicle weight rating or gross vehicle weight of more than 26,000 pounds, except a trailer bus.

(D) A farm labor vehicle.

(E) A single vehicle with three or more axles or a gross vehicle weight rating or gross vehicle weight of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating or gross vehicle weight of 10,000 pounds or less.

(F) A house car over 40 feet in length, excluding safety devices and safety bumpers.

(G) The operation of all vehicles covered under class C.

(3) Class C includes the following:

1 (A) A two-axle vehicle with a gross vehicle weight rating or
2 gross vehicle weight of 26,000 pounds or less, including when the
3 vehicle is towing a trailer or semitrailer with a gross vehicle weight
4 rating or gross vehicle weight of 10,000 pounds or less.

5 (B) Notwithstanding subparagraph (A), a two-axle vehicle
6 weighing 4,000 pounds or more unladen when towing a trailer
7 coach not exceeding 9,000 pounds gross.

8 (C) A house car of 40 feet in length or less.

9 (D) A three-axle vehicle weighing 6,000 pounds gross or less.

10 (E) A house car of 40 feet in length or less or a vehicle towing
11 another vehicle with a gross vehicle weight rating of 10,000 pounds
12 or less, including when a tow dolly is used. A person driving a
13 vehicle ~~may~~ *shall* not tow another vehicle in violation of Section
14 21715.

15 (F) (i) A two-axle vehicle weighing 4,000 pounds or more
16 unladen when towing either a trailer coach or a fifth-wheel travel
17 trailer not exceeding 10,000 pounds gross vehicle weight rating,
18 when the towing of the trailer is not for compensation.

19 (ii) A two-axle vehicle weighing 4,000 pounds or more unladen
20 when towing a fifth-wheel travel trailer exceeding 10,000 pounds,
21 but not exceeding 15,000 pounds, gross vehicle weight rating,
22 when the towing of the trailer is not for compensation, and if the
23 person has passed a specialized written examination provided by
24 the department relating to the knowledge of this code and other
25 safety aspects governing the towing of recreational vehicles upon
26 the highway.

27 ~~The~~

28 (iii) *The* authority to operate combinations of vehicles under
29 this subparagraph may be granted by endorsement on a class C
30 license upon completion of that written examination.

31 (G) A vehicle or combination of vehicles with a gross
32 combination weight rating or a gross vehicle weight rating, as
33 those terms are defined in subdivisions (j) and (k), respectively,
34 of Section 15210, of 26,000 pounds or less, if all of the following
35 conditions are met:

36 (i) Is operated by a farmer, an employee of a farmer, or an
37 instructor credentialed in agriculture as part of an instructional
38 program in agriculture at the high school, community college, or
39 university level.

40 (ii) Is used exclusively in the conduct of agricultural operations.

1 (iii) Is not used in the capacity of a for-hire carrier or for
2 compensation.

3 (H) Firefighting equipment, provided that the equipment is
4 operated by a person who holds a firefighter endorsement pursuant
5 to Section 12804.11.

6 (I) A motorized scooter.

7 (J) A bus with a gross vehicle weight rating or gross vehicle
8 weight of 26,000 pounds or less, except a trailer bus.

9 (K) Class C does not include a two-wheel motorcycle or a
10 two-wheel motor-driven cycle.

11 (4) ~~Class M1. A M1 includes a~~ two-wheel motorcycle or a
12 motor-driven cycle. Authority to operate a vehicle included in a
13 class M1 license may be granted by endorsement on a class A, B,
14 or C license upon completion of an appropriate examination.

15 (5) (A) Class M2 includes the following:

16 (i) A motorized bicycle or moped, or a bicycle with an attached
17 motor, except a motorized bicycle described in subdivision (b) of
18 Section 406.

19 (ii) A motorized scooter.

20 (B) Authority to operate vehicles included in class M2 may be
21 granted by endorsement on a class A, B, or C license upon
22 completion of an appropriate examination, except that no
23 endorsement is required for a motorized scooter. Persons holding
24 a class M1 license or endorsement may operate vehicles included
25 in class M2 without further examination.

26 (c) A driver's license or driver certificate is not valid for
27 operating a commercial motor vehicle, as defined in subdivision
28 (b) of Section 15210, any other motor vehicle defined in paragraph
29 (1) or (2) of subdivision (b), or any other vehicle requiring a driver
30 to hold ~~any~~ a driver certificate or ~~any~~ a driver's license
31 endorsement under Section 15275, unless a medical certificate
32 approved by the department that has been issued within two years
33 of the date of the operation of that vehicle and a copy of the
34 medical examination report from which the certificate was issued
35 is on file with the department. Otherwise, the license is valid only
36 for operating class C vehicles that are not commercial vehicles, as
37 defined in subdivision (b) of Section 15210, and for operating class
38 M1 or M2 vehicles, if so endorsed, that are not commercial
39 vehicles, as defined in subdivision (b) of Section 15210.

1 (d) A license or driver certificate issued prior to the enactment
2 of Chapter 7 (commencing with Section 15200) is valid to operate
3 the class or type of vehicles specified under the law in existence
4 prior to that enactment until the license or certificate expires or is
5 otherwise suspended, revoked, or canceled. Upon application for
6 renewal or replacement of a driver's license, endorsement, or
7 certificate required to operate a commercial motor vehicle, a valid
8 medical certificate on a form approved by the department shall be
9 submitted to the department.

10 (e) The department may accept a certificate of driving skill that
11 is issued by an employer, authorized by the department to issue a
12 certificate under Section 15250, of the applicant, in lieu of a driving
13 test, on class A or B applications, if the applicant has first qualified
14 for a class C license and has met the other examination
15 requirements for the license for which he or she is applying. The
16 certificate may be submitted as evidence of the applicant's skill
17 in the operation of the types of equipment covered by the license
18 for which he or she is applying.

19 (f) The department may accept a certificate of competence in
20 lieu of a driving test on class M1 or M2 applications, when the
21 certificate is issued by a law enforcement agency for its officers
22 who operate class M1 or M2 vehicles in their duties, if the applicant
23 has met the other examination requirements for the license for
24 which he or she is applying.

25 (g) The department may accept a certificate of satisfactory
26 completion of a novice motorcyclist training program approved
27 by the commissioner pursuant to Section 2932 in lieu of a driving
28 test on class M1 or M2 applications, if the applicant has met the
29 other examination requirements for the license for which he or she
30 is applying. The department shall review and approve the written
31 and driving test used by a program to determine whether the
32 program may issue a certificate of completion.

33 (h) Notwithstanding subdivision (b), a person holding a valid
34 California driver's license of any class may operate a short-term
35 rental motorized bicycle without taking ~~any~~ a special examination
36 for the operation of a motorized bicycle, and without having a
37 class M2 endorsement on that license. As used in this subdivision,
38 "short-term" means 48 hours or less.

39 (i) A person under ~~the age of~~ 21 years *of age* shall not be issued
40 a class M1 or M2 license or endorsement unless he or she provides

1 evidence satisfactory to the department of completion of a
2 motorcycle safety training program that is operated pursuant to
3 Article 2 (commencing with Section 2930) of Chapter 5 of Division
4 2.

5 (j) A driver of a vanpool vehicle may operate with a class C
6 license but shall possess evidence of a medical examination
7 required for a class B license when operating vanpool vehicles. In
8 order to be eligible to drive the vanpool vehicle, the driver shall
9 keep in the vanpool vehicle a statement, signed under penalty of
10 perjury, that he or she has not been convicted of reckless driving,
11 drunk driving, or a hit-and-run offense in the last five years.

12 SEC. 2. Section 12810.3 of the Vehicle Code is amended to
13 read:

14 12810.3. Notwithstanding subdivision (f) of Section 12810, a
15 violation point shall ~~not~~ *only* be given for a *second or subsequent*
16 conviction of a violation of subdivision (a) of Section 23123,
17 subdivision (a) of Section 23123.5, or subdivision (b) of Section
18 23124.

19 SEC. 3. Section 23123 of the Vehicle Code is amended to read:

20 23123. (a) A person shall not drive a motor vehicle while using
21 a wireless telephone unless that telephone is specifically designed
22 and configured to allow hands-free listening and talking, and is
23 used in that manner while driving.

24 (b) A violation of ~~this section~~ *subdivision (a)* is an infraction
25 punishable by a base fine of ~~twenty~~ *fifty* dollars ~~(\$20)~~ *(\$50)* for a
26 first offense and ~~fifty one hundred~~ *fifty* dollars ~~(\$50)~~ *(\$100)* for each
27 subsequent offense.

28 (c) This section does not apply to a person using a wireless
29 telephone for emergency purposes, including, but not limited to,
30 an emergency call to a law enforcement agency, health care
31 provider, fire department, or other emergency services agency or
32 entity.

33 (d) This section does not apply to an emergency services
34 professional using a wireless telephone while operating an
35 authorized emergency vehicle, as defined in Section 165, in the
36 course and scope of his or her duties.

37 (e) This section does not apply to a person driving a schoolbus
38 or transit vehicle that is subject to Section 23125.

39 (f) This section does not apply to a person while driving a motor
40 vehicle on private property.

1 ~~(g) This section shall become operative on July 1, 2011.~~

2 SEC. 4. Section 23123.5 of the Vehicle Code is amended to
3 read:

4 23123.5. (a) A person shall not drive a motor vehicle while
5 using an electronic wireless communications device to write, send,
6 or read a text-based communication, unless the electronic wireless
7 communications device is specifically designed and configured to
8 allow voice-operated and hands-free operation to dictate, send, or
9 listen to a text-based communication, and it is used in that manner
10 while driving.

11 (b) As used in this section “write, send, or read a text-based
12 communication” means using an electronic wireless
13 communications device to manually communicate with any person
14 using a text-based communication, including, but not limited to,
15 communications referred to as a text message, instant message, or
16 electronic mail.

17 (c) For purposes of this section, a person shall not be deemed
18 to be writing, reading, or sending a text-based communication if
19 the person reads, selects, or enters a telephone number or name in
20 an electronic wireless communications device for the purpose of
21 making or receiving a telephone call or if a person otherwise
22 activates or deactivates a feature or function on an electronic
23 wireless communications device.

24 (d) A violation of ~~this section~~ *subdivision (a)* is an infraction
25 punishable by a base fine of ~~twenty~~ *fifty* dollars ~~(\$20)~~ *(\$50)* for a
26 first offense and ~~fifty one hundred~~ *dollars* ~~(\$50)~~ *(\$100)* for each
27 subsequent offense.

28 (e) This section does not apply to an emergency services
29 professional using an electronic wireless communications device
30 while operating an authorized emergency vehicle, as defined in
31 Section 165, in the course and scope of his or her duties.

32 SEC. 5. Section 23124 of the Vehicle Code is amended to read:

33 23124. (a) This section applies to a person under ~~the age 18~~
34 *years of 18 years age*.

35 (b) Notwithstanding Sections 23123 and 23123.5, a person
36 described in subdivision (a) shall not drive a motor vehicle while
37 using a wireless telephone or an electronic wireless
38 communications device, even if equipped with a hands-free device.

1 (c) A violation of this section is an infraction punishable by a
2 base fine of ~~twenty~~ *twenty five* dollars ~~(\$20)~~ *(\$50)* for a first offense and
3 ~~fifty one hundred~~ dollars ~~(\$50)~~ *(\$100)* for each subsequent offense.

4 ~~(d) A law enforcement officer shall not stop a vehicle for the~~
5 ~~sole purpose of determining whether the driver is violating~~
6 ~~subdivision (b).~~

7 ~~(e) Subdivision (d) does not prohibit a law enforcement officer~~
8 ~~from stopping a vehicle for a violation of Section 23123 or~~
9 ~~23123.5.~~

10 ~~(f)~~
11 (d) This section does not apply to a person using a wireless
12 telephone or a mobile service device for emergency purposes,
13 including, but not limited to, an emergency call to a law
14 enforcement agency, health care provider, fire department, or other
15 emergency services agency or entity.

16 ~~(g)~~
17 (e) For ~~the~~ purposes of this section, “electronic wireless
18 communications device” includes, but is not limited to, a broadband
19 personal communication device, specialized mobile radio device,
20 handheld device or laptop computer with mobile data access, pager,
21 and two-way messaging device.